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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/708,401	03/01/2004	Feng-Fu Lin	ALIP0038USA	2400

27765 7590 07/05/2005

NORTH AMERICA INTERNATIONAL PATENT OFFICE (NAIPC)
P.O. BOX 506
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EXAMINER
CHAPMAN JR, JOHN E

ART UNIT	PAPER NUMBER
2856	

DATE MAILED: 07/05/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	10/708,401	LIN ET AL.	
	Examiner	Art Unit	
	John E. Chapman	2856	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *30 May 2005*.

2a)☒ This action is **FINAL**. 2b)☐ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1-4 and 6-15* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1-4 and 6-15* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date _____.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____ .
5) ☐ Notice of Informal Patent Application (PTO-152)
6) ☐ Other: _____.

DETAILED ACTION

1. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

2. Claims 1-4 and 6, 8-13 and 15 are rejected under 35 U.S.C. 102(b) as being anticipated by or, in the alternative, under 35 U.S.C. 103(a) as obvious over Okazaki et al. (6,424,606).

Okazaki et al. disclose a method for detecting an unbalanced disc 105 wherein the speed is set to the resonant frequency of the tracking actuator in the lens assembly 200, which actuator comprises a coil (col. 4, line 59). Vibration caused by the unbalanced disc 105 is detected and compared with a predetermined vibration value (threshold value) to determine if the vibration is within the vibration value limit. See, for example, column 10, lines 7-16. The vibration detect signal comprises a central error (CE) signal in that it indicates deviation of a laser spot 605 from a central position, as indicated in Figures 6A-6C.

The claims do not appear to preclude the use of a tracking error (TE) as a correction to the vibration detect signal, i.e., the central error (CE) signal. However, to the extent that the claims do preclude the use of a tracking error (TE) as a correction to the central error (CE) signal, it is well established that the omission of an element along with its function, where the remaining elements perform the same functions as before, involves only routine skill in the art. See *In re Kuhle,* 526 F.2d 553, 188 USPQ 7 (CCPA 1975); and *In re Karlson*, 311 F.2d 581, 136 USPQ 184 (CCPA 1963). Accordingly, merely to eliminate the TE signal from the vibration detect signal, along with its function of correcting the vibration detect signal for a tracking error, would have been obvious to one having ordinary skill in the art.

With regard to generating the CE signal by calculating an intensity difference between a left region and a right region of the photoelectric sensor, while regions A and D are "up" and B and C are "down" in Fig. 3 when viewed in landscape mode, regions A and D are "left" and B and C are "right" in Fig. 3 when viewed in portrait mode. Accordingly, whether the regions are up and down, or left and right, is simply a matter of how the photoelectric sensor is viewed and does not methodologically or structurally distinguish the sensor.

3. Claims 7 and 14 are rejected under 35 U.S.C. 103(a) as being unpatentable over Okazaki et al.

Merely to eliminate the TE signal from the vibration detect signal, along with its function of correcting the vibration detect signal for a tracking error, would have been obvious to one having ordinary skill in the art. It is well established that the omission of an element along with its function, where the remaining elements perform the same functions as before, involves only routine skill in the art. See *In re Kuhle,* 526 F.2d 553, 188 USPQ 7 (CCPA 1975); and *In re Karlson*, 311 F.2d 581, 136 USPQ 184 (CCPA 1963).

4. Applicant's arguments filed May 30, 2005 have been fully considered but they are not persuasive. Applicant argues that the claims are directed to a CE signal that is the intensity difference between a left region and a right region of the photoelectric sensor, wherein Okazaki et al. the vibration signal is derived from the difference between an upper area and a lower area. However, whether the regions are left and right, or upper and lower, merely reflects the perspective of a viewer, i.e., how the regions are bring viewed by an observer, and does not serve

to methodologically or structurally distinguish the invention. Viewed from the side, left and right regions become upper and lower regions, and vice versa. Hence, such a limitation fails to methodologically or structurally distinguish the claimed invention from that of the prior art.

To the extent that applicant intends left and right to be defined relative to a track on an optical disc, it is noted that the regions AD and BC of Fig. 3 of Okazaki et al. should be oriented left and right with respect to a track 140 on an optical disc 105 in Fig. 2. Compare tracking detector 330 in Fig. 3 of Okazaki et al. with tracking error circuit 119 in Fig. 4 of Ohta (5,909,414), and note the orientation of the photosensors 115 and 116 in Fig. 4 of Ohta with respect to track T3 in Fig. 3 of Ohta.

5. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

6. Any inquiry concerning this communication or earlier communications from the examiner should be directed to John E. Chapman whose telephone number is (571) 272-2191. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Hezron Williams can be reached on (571) 272-2208. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

John E Chapman
Primary Examiner
Art Unit 2856